

# Court of Appeals, State of Michigan

## ORDER

Michael S Sherman DO PC v Shirley T Sherrod MD PC

Docket No. 299045; 299775

LC No. 08-014212-CK

Kirsten Frank Kelly  
Presiding Judge

Michael J. Talbot

Cynthia Diane Stephens  
Judges

---

Having considered the motion for reconsideration of the Court's order of June 23, 2011, in light of the Supreme Court's counsel that the sanction of disentitlement is a harsh sanction that, if inappropriately applied, may "disserve the dignitary purposes for which it is invoked," *Degen v United States*, 517 US 820, 828; 116 S Ct 1777; 135 L Ed 2d 102 (1996) and the law's preference for deciding cases on the merits, *Alken-Ziegler Inc v Waterbury Headers Corp*, 461 Mich 219, 229; 600 NW2d 638 (1999), and having concluded that the unconditional dismissal of appellant Shirley T. Sherrod, M.D., P.C.'s appeal at this time is an unduly harsh sanction, the Court orders that the motion for reconsideration is GRANTED and upon reconsideration orders as follows:

With respect to appellant Shirley T. Sherrod, M.D., P.C., continuation of the appeal is conditioned on appellant corporation either posting a bond to stay the enforcement of the judgment and order appealed from pursuant to MCR 2.614 or presenting an appropriate officer of the corporation for a creditor's examination under oath and producing relevant discovery documents as requested by plaintiff-appellee. The motion to dismiss is HELD IN ABEYANCE for a period of 35 days after the Clerk's certification, during which period, appellant Shirley T. Sherrod, M.D., P.C., shall file proof with the Clerk of this Court to show that a stay bond has been posted or an appropriate officer of the corporation has been deposed and the requested documents have been produced.


The appeal is closed with respect to Shirley T. Sherrod, M.D. as provided in the Court's order of June 23, 2011.

Presiding Judge, Kirsten Frank Kelly, would deny the motion for reconsideration.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

August 24, 2011  
Date

  
Chief Clerk